BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

As rescanning documents *will not* correct images, please do not report the images to the Image Problem Mailbox.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MV

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/096,589	06/12/98	SCHNEIDER	R 5914-65

EXAMINER

020583
PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

HM22/0928

ART UNIT	PAPER NUMBER
1652	5

PROUTY,R

DATE MAILED: 09/28/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/096,589	Schneider et al.
Examiner	**Group Art Unit**
Rebecca Prouty	1652

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *1* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-37* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims *1-37* are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-4, drawn to methods of treating HBV infection by modulating a Src kinase gene with antisense, ribozyme or triplex molecules, classified in class 514, subclass 44.

II. Claims 1 and 5-11, drawn to methods of treating HBV infection by modulating a Src kinase with a Src kinase inhibitor, classified in class 514, subclass 1.

III. Claims 1, 5, and 12-14, drawn to methods of treating HBV infection by modulating a Src kinase with a Src kinase dominant negative mutant, classified in class 514, subclass 2.

IV. Claims 1, 5, 12 and 15, drawn to methods of treating HBV infection by modulating a Src kinase with a phosphotyrosine containing peptide, classified in class 514, subclass 7.

V. Claims 1, and 16-19, drawn to methods of treating HBV infection by modulating HBx with a Ras protein inhibitor, classified in class 514, subclass 789.

VI. Claims 1, 16-18, and 20-21, drawn to drawn to methods of treating HBV infection by modulating HBx with a MAP kinase inhibitor, classified in class 514, subclass 789.

VII. Claims 1, 16-18, and 22, drawn to drawn to methods of treating HBV infection by modulating HBx with a Myc protein inhibitor, classified in class 514, subclass 789.

VIII. Claims 23 and 24, drawn to a pharmaceutical composition comprising a inhibitor of Src kinase activation, classified in class 514, subclass 789.

IX. Claim 25, drawn to a pharmaceutical composition comprising a HBX inhibitor, classified in class 514, subclass 789.

X. Claims 26-29, drawn to methods of screening for antiviral agents by Src kinase signaling pathway component enzymatic activity assays, classified in class 435, subclass 4.

XI. Claims 30-31, drawn to methods of screening for antiviral agents by detection of HBV viral particles, classified in class 435, subclass 5.

XII. Claims 32-33, drawn to methods of screening for antiviral agents by screening for cell viability in the presence of agents which induce cell death in response

to Src kinase activation, classified in class 435, subclass 32.

XIII. Claims 34-35, drawn to yeast cells transformed with a Src kinase gene, classified in class 435, subclass 254.2.

XIV. Claims 36 and 37, drawn to drawn to methods of screening for antiviral agents by screening for Src kinase activity of a yeast cell transformed with a Src kinase gene, classified in class 435, subclass 6.

Those claims generic to a plurality of the above Groups (i.e., Claims 1, 5, 12 and 16-18) will be examined in view of the limitations of the group elected.

The inventions are distinct, each from the other because of the following reasons:

The methods of Groups I-VII, X-XII, and XIV are independent as they comprise different steps, utilize different products and produce different results.

Inventions VIII and I-IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product can be used in the materially different methods of Group I-IV as well as for *in vitro* inhibition of Src kinase activation.

The product of Group VIII is unrelated to the methods of Group V-VII, X-XII and XIV as it is neither used nor made by the methods of Group V-VII, X-XII and XIV.

Inventions IX and V-VII are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the product of Group IX could be used in the materially different methods of Groups VI-VIII or in the *in vitro* inhibition of HBx.

The product of Group IX is unrelated to the methods of Group I-IV, X-XII and XIV as it is neither used nor made by the methods of Group I-IV, X-XII and XIV.

Inventions XIII and XIV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the transformed yeast cells of Group XIII can be used to produce Src kinase.

The product of Group XIII is unrelated to the methods of Group I-VII and X-XII as it is neither used nor made by the methods of Group I-VII and X-XII.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rebecca Prouty, Ph.D. whose telephone number is (703) 308-4000. The examiner can normally be reached on Monday-Friday from 8:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy, can be reached at (703) 308-3804. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Rebecca Prouty
Primary Examiner
Art Unit 1652